

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7754

BILL NUMBER: HB 1812

DATE PREPARED: Jan 21, 1999

BILL AMENDED:

SUBJECT: Health Facility Revenues and Enforcement.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: This bill allows the Office of Medicaid Policy and Planning (OMPP) to require a health facility to disclose non-Medicaid revenue information in the health facility's annual historical financial report and allows the information to be used for public reporting purposes.

This bill also may several changes to the enforcement statutes for health facilities. The bill allows an allegation of breach at a health facility to be made orally or in writing. It also requires the State Department of Health to investigate all oral allegations, not just oral allegations that the Department considers to have merit. The bill also makes changes to the terminology and descriptions of the categories of a breach at a health facility.

This bill increases the penalties for a breach at a health facility. It also requires the State Department of Health to impose the balance of fines or costs assessed against a health facility against the licensee of the health facility if the health facility is unable to pay. This bill also requires a health facility found to have committed a breach to comply with various notice requirements. The bill allows the State Department of Health to place a temporary manager in a health facility at the health facility's expense to oversee the operation of the health facility while a breach is corrected or the health facility is being closed. It also provides immunity from civil liability for a temporary manager, except for certain specified acts or omissions.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues: This bill changes the sanction and fine structure for enforcement activities of the State Department of Health in the regulation of nursing facilities. Additional state fines collected by the State Department of Health are estimated to be at least \$160,000 to \$640,000 per year. This fine revenue

is deposited into the state General Fund.

There were 81 facilities fined during CY97. Applying the new fine structure in this bill to the CY97 breaches and proposed fines results in estimated additional fine amounts of \$198,000 to \$800,000 for CY97. Not included in the estimate, above, the bill also provides for additional fines (for Level 1 and Level 2 breaches) of \$3,000 to \$10,000 per day until the breach is corrected. Lesser daily fines are specified for Level 3 and Level 4 breaches. For those fines proposed and collected in CY97, about 80% of the amount proposed was eventually collected. If this collection rate continues, additional fine collections may total an estimated \$160,000 to \$640,000, not including the fines that may be imposed per day until the breach is corrected. This fine revenue is deposited into the state General Fund.

Additional sanctions are also authorized by this bill, including the placing of monitors or temporary managers in a health facility at the facility's expense.

After the State Department of Health inspects a facility and discovers breaches, the Department makes recommendations for sanctions to the federal government. If the federal government chooses to proceed and to levy and collect fines (historically, about half of the time, but more often recently), the fine revenue collected by the federal government is deposited into the Civil Monetary Penalty Fund and is to be used for the benefit of nursing facility residents in Indiana. However, if the federal government chooses not to proceed and the State Department of Health proceeds with the enforcement action, the fine revenue is deposited into the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Department of Health; Office of Medicaid Policy and Planning

Local Agencies Affected:

Information Sources: Gerald Coleman, State Department of Health, 233-7022.